



This document is scheduled to be published in the Federal Register on 11/16/2011 and available online at <http://federalregister.gov/a/2011-29471>, and on FDsys.gov

DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 59

RIN 2900-AN57

Updating Fire Safety Standards

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; affirmation.

SUMMARY: This document affirms as final, without changes, a provision included in a final rule with request for comments that amended the Department of Veterans Affairs (VA) regulations concerning community residential care facilities, contract facilities for certain outpatient and residential services, and State home facilities. That provision established a five-year period within which all covered buildings with nursing home facilities existing as of June 25, 2001, must conform to the automatic sprinkler requirement of the 2009 edition of the National Fire Protection Association (NFPA) 101. This rule helps ensure the safety of veterans in the affected facilities.

DATES: Effective Date: This final rule is effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brian McCarthy, Office of Patient Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave, NW, Washington, DC 20420, 202-461-6759. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a final rule with request for comments published in the Federal Register on February 24, 2011 (76 FR 10246), VA amended its regulations concerning the codes and standards applicable to community residential care facilities, contract facilities for outpatient and residential treatment services for veterans with alcohol or drug dependence or abuse disabilities, and State homes. We amended 38 CFR 17.63, 17.81(a)(1), 17.82(a)(1), and 59.130(d)(1) to require facilities to meet the requirements in the applicable provisions of current editions of publications produced by the NFPA. These publications are: NFPA 10, Standard for Portable Fire Extinguishers; NFPA 99, Standard for Health Care Facilities; NFPA 101, Life Safety Code; and NFPA 101A, Guide on Alternative Approaches to Life Safety.

We solicited comments regarding an interim final provision in the amendment to 38 CFR 59.130 that requires all buildings with nursing home facilities existing as of June 25, 2001, to have an automatic sprinkler system, as required in the 2009 edition of NFPA 101 by February 24, 2016. We provided a 60-day comment period on this interim final provision of the amendment to 38 CFR 59.130, and we received no comments.

Accordingly, we adopt this provision without change. This and all other provisions of the final rule with request for comments remain in effect as stated in the February 24, 2011, rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act of 1995

This document contains no collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

The change to part 59 concerning sprinkler systems will affect certain State homes. The State homes that will be subject to this rulemaking are State government entities under the control of State governments. All State homes are owned, operated and managed by State governments except for a small number operated by entities under contract with State governments. These contractors are not small entities.

Accordingly, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on October 21, 2011, for publication.

Dated: November 9, 2011

Robert C. McFetridge,
Director of Regulation Policy and Management,
Office of the General Counsel,
Department of Veterans Affairs.

[FR Doc. 2011-29471 Filed 11/15/2011 at 8:45 am; Publication Date: 11/16/2011]